

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012100483

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On October 09, 2012 Student filed a due process hearing request<sup>1</sup> (complaint) naming the Corona-Norco Unified School District (District).

On October 16, 2012, District filed a motion to dismiss Student's complaint on the ground that District had not been served with Student's complaint, and only became aware of the matter when it received a scheduling order from the Office of Administrative Hearings (OAH) on October 12, 2012. By OAH order dated October 30, 2012, Student was ordered to serve District with his complaint, and file the proof of service with OAH.

On November 2, 2012, District filed a notice of insufficiency (NOI) as to Student's complaint. The NOI states that District received Student's complaint on March 21, 2011.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

complaint that the party believes the complaint has not met the notice requirements.<sup>3</sup> Here, although District's NOI states that District received Student's complaint over one year ago, this assertion is an obvious typographical error. The facts show District likely received the complaint on or about October 30, 2012, and promptly filed the NOI within the 15 day time limit.<sup>4</sup>

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.<sup>5</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>6</sup>

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."<sup>7</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>8</sup>

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<sup>3</sup> 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

<sup>4</sup> OAH has not received a proof of service on District since the October 30, 2012 order was issued.

<sup>5</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

<sup>6</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>7</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>8</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>9</sup>

## DISCUSSION

Student is 5 years old and in kindergarten. His complaint was filed by his parent (Parent), who is not represented by counsel. Contrary to District's assertion that the complaint contains only one statement regarding the dispute, Student's complaint includes several statements of claims: (1) District has "consistently violated the IEP contracts" of Student, (2), District has placed Student's health at risk by "ignoring an established health action plan for a serious medical condition," (3) adequate notice was not given that District would not provide for Student's needs on faculty training days, and (4) District has failed to provide Student with a free appropriate public education (FAPE). As a resolution to all issues, Student's complaint requests that Parents be reimbursed for privately placing Student.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint, that is, that District failed to implement Student's IEP, including a plan to support Student's serious health condition, and that Parent seeks reimbursement for Student's private placement. Although the complaint does not describe Student's health condition, it does reference an agreed upon health plan, sufficient to place District on notice of the health supports at issue. The complaint does not identify dates of service, but as Student is in kindergarten and was removed from District and privately placed, there will necessarily be a narrow period of time in dispute in this matter, not greater than the two year limitations period. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the four claims is sufficient.

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<sup>9</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

## ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: November 05, 2012

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings